



DEBTS RECOVERY TRIBUNAL-III, DELHI

OA/7/2025

**Indian Renewable Energy Development Agency Limited
Vs. Gensol Engineering Limited**

28.05.2025

Item no. 01

Present : Mr. Rajeeve Mehra, Ld. Senior Advocate along with Mr. Saurav Panda, Mr. Prateek Yadav, Mr. Gaurav Arora, Ms. Jyotsana Punshi, Ms. Mohana Nijhawan and Mr. Vishrut Kansal, Ld. counsels for Applicant.

Mr. Vijay K. Singh along with Mr. Siddhant Kumar Singh, Ld. counsels for defendants no. 1 to 6.

1. This matter is taken up by this Tribunal through Hybrid Mode. Both the parties are present in personal through their respective Ld. Counsels.
2. Today, the case is fixed for hearing on the issue of interim relief(s) sought by applicant in this OA.
3. Ld. Sr. advocate, along with counsels, appearing on behalf of applicant has prayed to grant interim relief(s) in favour of Applicant on following main grounds:-
 - (i) That SEBI passed an interim order dated 15.04.2025 under Section 11(1), 11(4) and 11B of the SEBI Act and made various observations viz. mis-utilization and diversion of the funds of GEL (defendant no. 1 herein) in fraudulent manner by the personal guarantors who were also direct beneficiaries of the diverted funds; GEL and the personal guarantors had prima facie violated the provisions of SEBI Act and SEBI (Prohibition of Fraudulent and Unfair Trade Practices relating to

Securities Market Regulations, 2003 etc.
(Annexure-80);

- (ii) That other NBFCs approached Hon'ble High Court of Delhi as well as other DRT and vide their respective orders GEL (defendant no. 1 herein) has been restrained from selling, alienating, transferring in respect of EVs which were subject matter of the said proceedings (Annexure A-68, A-90, A-91, A-92 and A-93);
 - (iii) That if the EVs are not charged, they will lose their value;
 - (iv) That Applicant herein has already appointed Ernst & Young LLP to take physical possession and take necessary steps to charge and preserve the EVs and re-allocate them;
 - (v) That Legal Notice dated 26.05.2025 has been sent to Applicant by Advocate on behalf of co-owners of property situated at Khasra No.1087/942/83, Basai Village, Opp. Basai Bus Stand, Gurugram, Haryana regarding abandoned EVs alleged financed by PFC and Lying on private property leased to BluSmart Charge Pvt. Ltd.
4. Ld. Sr. advocate along with counsels for applicant submitted that this OA has been filed for recovery of more than Rs. 510.0 crore, hence, request is made to grant interim relief(s) sought in Para 7.4 (A) to (J) and (L) of the OA. However, he is not pressing rest of the prayers sought at Para 7.4.
5. On the other hand, Ld. counsel for defendants no. 1 to 6 submitted that he has already filed his vakalatnama on behalf of defendants no. 1 & 3. He further submitted that

he is also appearing on behalf of defendants no. 2 & 4 to 6 as well and seeks time to file his vakalatnama for these defendants. Let him do so within next 2-working days.

Ld. counsel for defendants no. 1 to 6 submitted that he has received copy of paper book on last Saturday / Sunday and seeks time to file the Reply and request is made to list the matter on some other day for hearing on the issue of interim relief. However, he has addressed arguments on the issue of interim relief(s) today itself.

While opposing the request for granting interim relief(s), Ld. counsel for defendants no. 1 to 6 has raised following main objections:-

- (i) That the Applicant herein has filed petitions before Ld. NCLT, Ahmedabad and next date fixed there is 03.06.2025, however, this fact has been concealed by the Applicant;
- (ii) That Union of India has also filed Application before Ld. NCLT, Ahmedabad and this fact is also concealed by Applicant;
- (iii) That SEBI has already passed order dated 15.04.2025 in the nature of interim relief. Moreover, this Tribunal has also passed directions for maintaining status quo vide order dated 22.05.2025. In these circumstances, defendants may be permitted to file detailed reply to this OA and hear them after that;
- (iv) That the account of defendant no. 1 has not been declared as NPA;
- (v) That the Applicant cannot be permitted to sell the vehicles unless decree is passed in their favour;



(vi) That EVs have already placed at secured places and in case same are being handed over the Applicant, it will cause great prejudice to the defendants and they may suffer irreparable loss. Ld. counsel for defendants no. 1 to 6 has also relied upon the Judgement passed by Hon'ble Supreme Court of India in *Civil Appeal Nos. 6839-6840 of 1995* (decided on 04.08.1995) in the case titled as *Gujarat Bottling Co. Ltd. and Ors. Vs. Coca Cola Company and Ors.*

6. In rejoinder, Ld. Sr. advocate along with counsel for Applicant stated that this OA has been filed under RDB Act not under SARFAESI Act, hence, declaration of account as NPA was not required. He further submitted that since the defendants defaulted in making payment of amount due towards the Applicant, hence, Applicant issued Loan Recall Notice, Notice of Event of Default and Notices invoking personal guarantees etc. (Annexure A-75, A-76 & A-77). He also submitted that Ld. counsel for defendants has not denied the contents of Hypothecation Agreements(s). He further submitted that so far as, questions of applications filed before Ld. NCLT are concerned, mere filing of applications does not amount to commencement of moratorium. Hence, request is made to grant interim relief(s) in favour of Applicant and against the defendants.

7. **Order on interim relief:** Heard Learned counsels for both the parties on the prayer(s) of interim relief (s) mentioned at para 7.4 of this OA and perused the OA supported with affidavit and content of documents executed by defendant(s). I do not find any merit in the

contention of Ld. counsels for defendants rather I found that applicant has succeeded in establishing a prima facie case in their favour. The balance of convenience also lies in their favour and if ex parte interim order is not granted in favour of the applicant, it may suffer an irreparable loss which cannot be compensated in terms of the money.

Looking into the facts & circumstances of this OA, the prayers at Para 7.4 (A) & (B) of the OA are granted and concerned defendants are hereby restrained from selling, transferring, alienating, damaging, removing and disposing off or otherwise creating third party interest with regard to secured assets, immovable & movable, as detailed in said paragraphs, until further orders.

So far as, prayer at Para 7.4(C) is concerned, this prayer is allowed in the manner that Sh. Harsh Patidar, Deputy Manager (Law) / Authorized Representative of the Applicant is hereby appointed as Court Receiver to take the possession of hypothecated vehicles (as detailed in OA), with adequate police help and SHO of the concerned area is directed to provide the police assistance to the Court Receiver to execute the present order. The Court Receiver shall file the report along with videos and photograph before the next date of hearing.

It is also made clear that Ld. Receiver shall be at liberty to take help of any reputed Company who is having expertise to take physical possession and take necessary steps to charge and preserve the EVs and re-allocate them, for compliance of the order of this Tribunal.

Prayer at Para 7.4(D) is also allowed and defendants are directed to provide the tracking details of each of the assets financed by the Applicant, in particular the EVs with the location and each of the asset to the Applicant.

Similarly, Prayer at Para 7.4(E) is also allowed and concerned officer of NSDL/CDSL are directed to provide details of DEMAT account and bank account of any nature associated with the particular PAN numbers of Defendants no. 1 to 6. If any DEMAT accounts exists, NSDL and CDSL are directed to freeze the account and file the details of shares with this Tribunal;

Prayer at Para 7.4(F) is also allowed and defendants are hereby restrained from entering into settlement with any unsecured creditor without the prior approval of this Tribunal;

So far as, prayer at Para 7.4(G) is concerned, same is also allowed and defendants no 1 to 6 are directed to file their comprehensive affidavit of assets along with documentary evidence, as detailed in said Para, before next date fixed.

As regards, Prayers at Para 7.4(H), (I) and (L) are concerned, these prayers are also allowed .

So far as, rest of the prayers are concerned, let reply(s) to same be filed by the defendants along with their WS and no order is going to be passed on said prayer(s) at this stage.

8. The Applicant is directed to inform and intimate the concerned registration authority / Sub Registrar Office and revenue authority about the order with respect to the property-in-question / hypothecated vehicles at the

earliest and concerned authority shall ensure to enter the same in the relevant record. Authorized officer of Applicant shall also file an affidavit to the effect that he has served the copy of restraint order with regard to mortgaged property/hypothecated vehicle, before this Tribunal on or before next date of hearing.

OA

9. Let Applicant also provide complete set of OA to Ld. counsels for defendants no. 1 to 6 for defendants no. 2 and 4 to 6 within next three days and file proof of service as well.
10. **Direction for Defendants in terms of Section 19(4) (i)**
: The defendants are directed to file written statement including claim - for set off (if any) under section 19(6) RDB Act or a counter claim (if any) under section 19(8) RDB Act accompanied **with original documents** and other evidence [in terms of section 19(4) (i) and 10 (A) RDB Act] in their defence within 30 days since the date of receipt of notice, **failing which the right to file written statement as well as defence evidence shall be closed.**
11. List the matter on 16.07.2025 before the Registrar for completion of pleadings.

28.05.2025



(SHIV KUMAR - I)
PRESIDING OFFICER,
DRT-III, DELHI

